

## EXHIBIT 2

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LIFE AFTER HATE, INC., a/k/a EXITUSA,	)	
	)	
Plaintiff,	)	Case No. 18-cv-06967
	)	
v.	)	Judge Virginia M. Kendall
	)	
FREE RADICALS PROJECT INC., and	)	Magistrate Judge Jeffrey Cole
CHRISTIAN PICCIOLINI,	)	
	)	
Defendants.	)	

**DEFENDANT CHRISTIAN PICCIOLINI’S SUPPLEMENTAL AND AMENDED  
OBJECTIONS AND RESPONSES TO PLAINTIFF’S FIRST REQUESTS TO PRODUCE**

Defendant, CHRISTIAN PICCIOLINI (“Picciolini”), by and through his undersigned counsel, for his supplemental and amended objections and responses to Plaintiff’s First Set of Requests to Produce, states as follows.

**GENERAL OBJECTIONS**

1. Picciolini objects to Plaintiff’s First Requests to Produce (hereafter referred to as the “Requests”) to the extent they seek information or documents, or to impose obligations, beyond those required by the Federal Rules of Civil Procedure and/or the Local Rules of the United States District Court for the Northern District of Illinois, Eastern Division.

2. Picciolini objects to Plaintiff’s Requests to the extent they call for documents or information not within his possession, custody, control, or knowledge, or that are as readily accessible to Plaintiff as they are to Picciolini, including but not limited to documents or information that are publicly available or available from third parties.

3. Picciolini objects to Plaintiff’s Requests to the extent they seek material protected by the attorney-client privilege, the attorney work-product doctrine, and/or any other applicable

privilege, or to the extent that they are otherwise protected from discovery. To enable Plaintiff to evaluate Picciolini's assertions of privilege, Picciolini states that he respectfully declines to produce or log any files, records, documents or other things, relating to his communications with undersigned counsel and/or that were created on or after the date that the Complaint was filed.

4. Picciolini objects to the extent that Plaintiff's Requests seek "all" information and documents to the extent the production of "all" documents or information pertaining to a particular subject matter is overbroad, unduly burdensome, and/or not reasonably calculated to lead to the discovery of admissible evidence in that it is unreasonably cumulative and/or duplicative.

5. Picciolini objects to the extent that Plaintiff's requests seek disclosure of names or other personal identifying information regarding any person who has received services from Picciolini and/or Free Radicals Project, Inc. because such information is highly confidential and disclosure of the same constitutes a breach of confidence and trust held with those individuals, and disclosure of such personal identifying information may endanger those persons. Therefore, Picciolini will not disclose such personal identifying information in response to any Request.

6. Picciolini's identification of information or responsive documents in response to an individual Request is based on his investigation, review, and production to date, and does not necessarily include "all" information and documents which may ultimately be determined to be responsive to any given Request.

7. A response that Picciolini will produce documents is not an indication that any documents exist, but only a representation that they will be produced if such documents do exist.

8. In providing any of the information requested, Picciolini does not concede the relevance thereof to the subject matter of this proceeding. Picciolini's responses are made

expressly preserving the right to raise all questions of relevance and admissibility and to object on any grounds to the use of any responses to Plaintiff's Requests. The fact that Picciolini has answered or responded to any Request or any part thereof subject to objections does not waive all or any part of any objection to any Request.

9. Picciolini reserves the right to modify or supplement his answers and objections to Plaintiff's Requests, which are made based on the current status of knowledge, understanding, belief, and search for information and documents. The investigation of facts and information relating to this proceeding is continuing, and therefore, these answers are not intended as an admission or a representation that additional or different information or facts do or do not exist.

10. Subject to and without waiving his General Objections, which are incorporated in and made part of each specific response to Plaintiff's individual Requests, Picciolini responds as follows:

#### **SPECIFIC OBJECTIONS AND RESPONSES**

1. All Documents, ESI, Communications, and Other Things, that reference the Domain Name and the Trademarks, that were sent or received from your personal email and social media accounts while you were a member of LAH, after September 2014 until August 2017.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 1 as overly broad and unduly burdensome on the grounds that it seeks documents from time periods not relevant to the subject matter of this lawsuit and it is not relevant to the claims and defenses asserted in this lawsuit. Specifically, the time period in which Plaintiff is alleging infringement allegedly occurred *after* August, 2017. Similarly, the likelihood of consumer confusion, at issue in Plaintiff's motion for preliminary injunction, could not exist during the time period when

Piccioli was still associated with Plaintiff, which time period includes September 2014 until August 2017, and therefore this request is not and cannot be reasonably calculated to lead to the discovery of admissible evidence. Picciolini further objects to Request 1 as overly broad, vague, and ambiguous on the grounds that the term “reference” is undefined and Picciolini cannot ascertain the meaning Plaintiff attaches to it and it is further unclear how documents “referenced” during the time Picciolini was still associated with Plaintiff is relevant to the likelihood of consumer confusion. Picciolini further objects to Request 1 on the grounds that the term “personal email” is undefined and Picciolini is unclear as to what e-mail address is responsive to Request 1. Picciolini further objects to Request 1 to the extent it requests documents protected by the attorney-client privilege or the attorney work-product doctrine. Further answering, on February 7, 2019, the Court denied (dkt. 59) Plaintiff’s motion to compel with regard to this request and the Court agreed that Picciolini’s initial objections to this request were proper.

2. All Documents, ESI, Communications, and Other Things relating to any programming policies, assessment tool(s), and transition program(s) you created since August of 2017.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 2 on the grounds that the substance of any policies, tools, or programs created by Picciolini since August of 2017 is not relevant to the subject matter of this lawsuit, including any claims or defenses asserted in this lawsuit, and Request 2. There is also no legal basis for Plaintiff to request “communications” or “other things” as being relevant to a likelihood of consumer confusion analysis because such documents are not necessarily public-facing document. This request is therefore not reasonably calculated to lead to the discovery of admissible evidence and

it is not proportional to the needs of the preliminary injunction motion. Picciolini further objects to Request 2 as overbroad on the grounds that it seeks documents that are not proportional to the needs of this lawsuit when Plaintiff concedes that Plaintiff and Picciolini's services do not overlap and therefore the scope of documents requested is not relevant to the preliminary injunction motion. Subject to and without waiving his general and specific objections, and as limited thereby, Picciolini will produce responsive documents to Request 2 that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

3. All Documents, ESI, Communications, and Other Things relating to any public events, seminars, classes, workshops, lectures, etc., that you planned, executed, participated in, or attended between August of 2017 to present that reference the Domain Name or the Trademarks.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 3 to the extent it requests documents protected by the attorney-client privilege or attorney work-product doctrine. Picciolini further objects to Request 3 as vague and ambiguous on the ground that the term "reference" is undefined and Picciolini cannot ascertain the meaning Plaintiff attaches to it. Picciolini further objects to Request 3 on the ground that any activity "planned, executed, participated in, or attended" is not relevant to the likelihood of consumer confusion and/or are subject to fair use in which Picciolini is entitled to state that he is a co-founder and was formerly associated with "Life After Hate." Subject to and without waiving his general and specific objections, and as limited thereby, Picciolini will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

4. All Documents, ESI, Communications, and Other Things relating to the creation, negotiation, acquisition, registration, or any subsequent transfer of the Domain Name or the Trademarks.

**RESPONSE:** Subject to Picciolini's General Objections, and as limited thereby, Picciolini will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

5. All Documents, ESI, Communications, and Other Things relating to your use of Domain Name and Trademarks from August of 2017 to now.

**RESPONSE:** Subject to Picciolini's General Objections, and as limited thereby, Picciolini will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

6. All Documents, ESI, Communications, and Other Things between you and GoDaddy relating to the Domain Name.

**RESPONSE:** Subject to Picciolini's General Objections, and as limited thereby, Picciolini will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

7. All Documents, ESI, Communications, and Other Things relating to any third party's confusion regarding the ownership of the Domain Names and/or the Trademarks.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 7 on the grounds that Plaintiff assumes that "third party confusion" even exists. To the extent it does

exist, such information should already be in Plaintiff's possession because Plaintiff has made this allegation that there is evidence of consumer confusion it and therefore should know the basis for its claims for injunctive relief. Picciolini further objects to Request 7 on the grounds that the motion for preliminary injunction analyzes the likelihood of *consumer* confusion and, therefore, to request "any third party's" confusion is necessarily overbroad to the extent they are not a consumer. Additionally, Picciolini objects to Request 7 as vague and ambiguous on the grounds that Plaintiff has failed to define the class of individuals it deems to be subject to a likelihood of consumer confusion analysis as part of the preliminary injunction motion. Subject to Picciolini's General Objections, and as limited thereby, Picciolini is not aware of any actual third party confusion, but will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

8. All Documents, ESI, Communications, and Other Things relating to any transition of administrative access to Plaintiff's online accounts including websites, email, Facebook accounts, YouTube accounts, Twitter accounts, and/or banking records.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 8 as overly broad and unduly burdensome on the grounds that any "banking records" are not relevant to the likelihood of consumer confusion that Plaintiff must establish in seeking a preliminary injunction. It is unclear, for example, how a "communication" that Picciolini has relating to access to "banking records" would ever be known to "consumers" of Picciolini's services that they could be confused based on who has access to a bank account. Picciolini further objects to Request 8 on the grounds that there is no authority with regard to any factor considered in a likelihood of consumer confusion analysis that any consumer is ever aware of or even considers



who has administrative access to any account and, further, Plaintiff does not allege that consumers are confused based on a transition of administrative access, but instead alleges there is confusion based on use of the Trademarks. Accordingly, Request 8 seeks documents that are not relevant to the subject matter of preliminary injunction motion and Request 8 is not reasonably calculated to lead to the discovery of admissible evidence. Picciolini further objects to Request 8 as vague and ambiguous on the grounds that the term “transition” is undefined and Picciolini is unable to ascertain the meaning Plaintiff attaches to it and what documents Plaintiff contends are responsive to Request 8. Picciolini further objects to Request 8 as overly broad and unduly burdensome on the grounds that it is unlimited in time and scope and it seeks documents not relevant to the time period at issue in this lawsuit because, by Plaintiff’s own allegations, the time period of the alleged infringement began, at the earliest, sometime after August, 2017 and that the time period where Picciolini separated away from Plaintiff took place in August, 2017. Subject to and without waiving the foregoing objections, and as limited thereby, Picciolini will produce responsive documents from the time period of August 1, 2017 to August 31, 2017 relating to Picciolini’s websites, email accounts, Facebook accounts, YouTube accounts, or Twitter accounts that are in Picciolini’s possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further responding, Picciolini has already supplemented this request consistent with the Court’s February 7, 2019 order (dkt. 59).

9. All Documents, ESI, Communications, and Other Things relating to the Web Analytics associated with the Domain Name and your online accounts including websites, Facebook accounts, YouTube accounts, and Twitter accounts.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 9 as overly broad and unduly burdensome on the grounds that it seeks documents not relevant to the time period at issue in this lawsuit because, by Plaintiff's own allegations, the time period of the alleged infringement began, at the earliest, sometime after August, 2017. Picciolini further objects to Request 9 on the grounds that "web analytics" are not relevant to the subject matter of the preliminary injunction motion because the mere fact that a website's data is recorded in some way is not relevant to establishing consumer confusion. For example, if data showed that there is web traffic associated with Picciolini's personal website, assuming that is what Plaintiff means by "online account," this request does not seek specific data showing that the existence of traffic is correlated to the trademarks that Plaintiff are claims at issue. Request 9 is therefore not reasonably calculated to lead to the discovery of admissible evidence. Picciolini further objects to Request 9 on the grounds that Picciolini is not in possession of "web analytics" and that such information or documents is procured from third parties who maintain such information, which makes the document equally accessible to Plaintiff. Picciolini further objects to Request 9 as overbroad on the grounds, for example, that an internal or external "communication" relating to "web analytics" is not considered under any factor utilized by the court in a preliminary injunction analysis, and that such communication does not involve the trademarks at issue. Picciolini further objects to Request 9 as overbroad on the grounds that it seeks documents that are not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

10. All Documents, ESI, Communications, and Other Things relating the geographical location of your users, clients, donors, and any other person or party that was interested in and/or used your services from August of 2017 to the present.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 10 as overly broad and unduly burdensome on the grounds that Picciolini does not maintain or store any geographical information and that Plaintiff is requiring Picciolini to procure this information from sources not in his possession. Picciolini further objects to Request 10 as overbroad because, and for example, Plaintiff does not define who the class of individuals that are “consumers” subject to the preliminary injunction motion. On the same grounds, Picciolini objects to Request 10 because any person or entity that “donates” to Picciolini is not a “consumer” and therefore documents relating to “donors” are not subject to a likelihood of consumer confusion analysis.. Picciolini further objects to Request 10 as overbroad on the grounds that it seeks documents that are not proportional to the needs of this lawsuit. Picciolini further objects to Request 10 on the grounds that the term “interested in” is undefined and Picciolini cannot ascertain the meaning Plaintiff attaches to it, let alone how to differentiate such class of individuals who were “interested in” Picciolini’s services. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

11. All Documents, ESI, Communications, and Other Things relating to all demands that were made upon you by Plaintiff to cease any alleged infringement of the Domain Name and/or the Trademarks.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 11 to the extent it requests information protected by the attorney-client privilege or the attorney work-product doctrine. Subject to and without waiving the foregoing objections, and as limited

thereby, Picciolini will produce non-privileged documents responsive to Request 11 in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

12. All Documents, ESI, Communications, and Other Things drafted by you that specifically reference LAH's founding members, current members, employees, or affiliates, since August 2017.

**RESPONSE:** Picciolini objects to Request 12 as overly broad, unduly burdensome, and not relevant to the subject matter of the preliminary injunction motion on the grounds that it seeks documents that "specifically reference LAH's founding members, current members, employees, or affiliates," but Plaintiff's preliminary injunction motion is not based on the likelihood of consumer confusion that arises from the reference to this specific subject matter, but is instead based on use of alleged use of trademarks. Subject to Picciolini's general and specific objections, and as limited thereby, Picciolini will produce responsive documents that are in his possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further

13. All Documents, Communications, and Other Things you plan to present, use, reference, or rely upon at the preliminary injunction hearing.

**RESPONSE:** In addition to his General Objections, Picciolini objects to Request 13 as premature as the Court did not set any exhibit disclosure deadlines and Plaintiff did not request such relief from the Court. Picciolini will supplement his response to Request 13 at a time so ordered by the Court. Further, Picciolini objects to Request 13 to the extent that it seeks documents protected by attorney-client privilege and/or work product doctrine. Picciolini further

objects on the grounds that the term “rely upon” is ambiguous, undefined, unclear, and overly broad.

Date: February 10, 2019

Respectfully submitted,

By: /s/ Eugene J. Geekie  
Eugene J. Geekie (ARDC 6195060)  
Joseph M. Kuo (ARDC 6216400)  
Michael A. Jacobson (ARDC 6313122)  
Danielle N. LaHee (ARDC 6327199)  
SAUL EWING ARNSTEIN & LEHR LLP  
161 N. Clark Street, Suite 4200  
Chicago, Illinois 60601  
(312) 876-7100  
(312) 876-0288  
eugene.geekie@saul.com  
joseph.kuo@saul.com  
michael.jacobson@saul.com  
danielle.lahee@saul.com  
*Attorneys for Defendants Free Radicals  
Project Inc. and Christian Picciolini*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2019, I served a copy of the foregoing document on all parties of record via electronic mail.

/s/ Michael A. Jacobson